

Senate Bill No. 1775

CHAPTER 306

An act to amend Sections 1228.1, 1228.2, 1228.3, 1228.5, 1228.8, and 1228.9 of, and to amend the heading of Article 2.7 (commencing with Section 1228) of Chapter 1 of Part 2 of Division 2 of, the Water Code, relating to water.

[Approved by Governor September 1, 2000. Filed
with Secretary of State September 5, 2000.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1775, Johannessen. Stockponds.

Existing law provides for the appropriation of water by filing an application with the State Water Resources Control Board. Existing law provides that the owner of any dam or water impoundment structure constructed prior to January 1, 1969, meeting certain requirements, has a valid water right for the use of water for livestock watering and other prescribed purposes, if that person files a claim of water right with the state board not later than December 31, 1997.

This bill would authorize any person to obtain a right to appropriate water for a livestock stockpond use, as defined, upon registering the use with the board, as prescribed, payment of a registration fee of \$100, and application of the water to reasonable and beneficial use with due diligence. The bill would provide a procedure for protesting the approval of a registration. The bill would allow a registrant to maintain more than one registration if stockponds subject to registration do not exceed the ratio of one per 50 acres. The bill would provide for the renewal of the registration prior to the expiration of each 5-year period following completed registration.

The people of the State of California do enact as follows:

SECTION 1. The heading of Article 2.7 (commencing with Section 1228) of Chapter 1 of Part 2 of Division 2 of the Water Code is amended to read:

Article 2.7. Registration of Appropriations for Small Domestic and Livestock Stockpond Uses

SEC. 2. Section 1228.1 of the Water Code is amended to read:

1228.1. (a) The Legislature finds and declares that it is in the public interest to provide a timely, efficient, and economic procedure for the acquisition of rights to appropriate water for a

small domestic use, including incidental stockwatering and irrigation uses, and for livestock stockponds subject to prior rights.

(b) As used in this article, “small domestic use” means a domestic use, not to exceed direct diversion of 4500 gallons per day or diversion by storage of 10 acre-feet per annum, as that use is defined by board rule, and shall include impoundment for incidental aesthetic, recreational, or fish and wildlife purposes.

(c) As used in this article, “livestock stockpond” means a water impoundment structure constructed for livestock watering use not to exceed direct diversion of 4500 gallons per day, or diversion by storage of 10 acre-feet per year, as that use is defined by the board, and including impoundment for incidental aesthetic, recreational, or fish and wildlife purposes.

SEC. 3. Section 1228.2 of the Water Code is amended to read:

1228.2. (a) (1) Subject to subdivision (b), any person may obtain a right to appropriate water for a small domestic or livestock stockpond use upon first registering the use with the board and thereafter applying the water to reasonable and beneficial use with due diligence.

(2) With regard to an appropriation for small domestic use, not more than one registration shall be in effect at any time for any facility.

(3) With regard to an appropriation for livestock stockpond use, more than one registration may be in effect at any time for a registrant if stockponds subject to registration for that registrant do not exceed the ratio of one per 50 acres.

(b) Initiation of rights to appropriate water pursuant to this article shall be subject to Article 1.3 (commencing with Section 1205), relating to fully appropriated stream systems. The board shall not accept any registration of water use which proposes as a source of water supply any stream system which has been unconditionally declared by the board to be fully appropriated pursuant to Section 1205, except that subdivision (b) of Section 1206, relating to conditional declarations of fully appropriated stream systems, shall apply to registration of water use pursuant to this article, and the board shall accept those registrations where consistent with the conditions specified in any such declaration.

(c) On or before June 30, 1989, and annually thereafter, the Division of Water Rights shall prepare and submit to the board a report summarizing the location, nature, and amount of water appropriated pursuant to this article. The report shall include a description of the availability of unappropriated water in those stream systems which may become fully appropriated within the next reporting period.

(d) Whenever it can be reasonably anticipated that a stream system may become fully appropriated within the next reporting period, the board shall, following notice and hearing, determine



whether that stream system should be declared fully appropriated pursuant to Article 1.3 (commencing with Section 1205).

SEC. 3.5. Section 1228.3 of the Water Code is amended to read:

1228.3. (a) Registration of water use pursuant to this article shall be made upon a form prescribed by the board. The registration form shall set forth all of the following:

(1) The name and post office address of the registrant.

(2) The source of water supply.

(3) The nature and amount of the proposed use.

(4) The proposed place of diversion.

(5) The place where it is intended to use the water.

(6) The time for completion of construction of diversion works and for complete application of the water to the proposed use.

(7) A certification that the registrant has contacted a representative of the Department of Fish and Game designated by that department for that purpose, has provided information to that department which is set forth in the registration form, and has agreed to comply with all lawful conditions, including, but not limited to, conditions upon the construction and operation of diversion works, required by the Department of Fish and Game. The certification shall include a copy of any conditions required by the Department of Fish and Game pursuant to this paragraph.

(8) Any other information that may reasonably be required by the board.

(b) Registration of water use shall be deemed completed on the date that the form, executed in substantial compliance with the requirements of this section, and the registration fee specified in subdivision (a) of Section 1228.8 are received by the board.

(c) The board shall issue monthly a list of registrations filed under this article during the preceding calendar month. This list shall contain the information required by paragraphs (1) to (6), inclusive, of subdivision (a). The list shall set forth a date prior to which any interested person may file a written protest in opposition to the approval of a stockpond registration. That date shall be not later than 30 days from the date on which the list is issued. The board shall mail the monthly list of registrations filed to any person who so requests.

(d) Prior to the date set forth on the list required under subdivision (c), any interested person may file with the board a written protest in opposition to the approval of a stockpond registration. The protest shall clearly set forth the protestant's objections to the registered use based on interference with prior rights. The protest shall be served on the registrant by the protestant by mailing a duplicate copy of the protest to the registrant, or through service undertaken in another manner determined to be adequate by the board. The procedures set forth in Article 1.5 (commencing with Section 1345) of Chapter 5 shall be used for reviewing a protested registration.



SEC. 4. Section 1228.5 of the Water Code is amended to read:

1228.5. (a) Registration of a small domestic or livestock stockpond use pursuant to this article shall be renewed prior to the expiration of each five-year period following completed registration.

(b) Renewal of registration shall be made upon a form prescribed by the board and shall contain such report of water use made pursuant to the registration as may be required by the board.

(c) The conditions established by the board pursuant to Section 1228.6 which are in effect at the time of renewal of registration shall supersede the conditions which were applicable to the original completed registration.

(d) Failure to renew registration in substantial compliance with the reporting requirements prescribed by the board within the time period specified in subdivision (a), or to pay the renewal fee specified in subdivision (b) of Section 1228.8, shall result by operation of law in the revocation of any right acquired pursuant to this article.

SEC. 5. Section 1228.8 of the Water Code is amended to read:

1228.8. (a) Every person registering a small domestic or livestock stockpond use of water shall pay to the board a registration fee of one hundred dollars (\$100).

(b) Every person renewing registration of a small domestic or livestock stockpond use of water shall pay to the board a renewal fee of fifty dollars (\$50).

SEC. 6. Section 1228.9 of the Water Code is amended to read:

1228.9. With regard to a small domestic use of water, no right to appropriate or use water subject to appropriation may be initiated on and after January 1, 1989, except upon compliance with this article, and this article shall be the exclusive means of acquiring and maintaining that right. Nothing in this article shall be construed as affecting any right initiated or acquired pursuant to permit or evidenced by license, and including any application filed but not permitted, prior to January 1, 1989.

